

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

HEATHER KIRSCHEN RIPPERE,

No. C 10-03532 WHA

Plaintiff,

v.

WELLS FARGO BANK, N.A.,

Defendant.

**ORDER GRANTING  
DEFENDANT'S MOTION FOR A  
MORE DEFINITE STATEMENT;  
DENYING PLAINTIFF'S  
MOTION FOR SANCTIONS;  
AND VACATING HEARING**

**INTRODUCTION**

This action, which plaintiff is prosecuting *pro se*, arises out of alleged fraud in a real estate transaction. Defendant Wells Fargo Bank, N.A., moves to dismiss or in the alternative for a more definite statement. For the following reasons, defendant's motion for a more definite statement is **GRANTED**.

**STATEMENT**

Plaintiff alleges that she entered into a consumer contract for the refinance of her primary residence (Compl. 1). Plaintiff further asserts that "*defendants*, acting in concert and collusion with others [unnamed in the complaint], induced [her] to enter into a predatory loan agreement with [*d*]efendant" (*ibid.*) (emphasis added). Additionally, the complaint states that "defendants" committed numerous acts of fraud in furtherance of "a carefully crafted scheme intended to defraud" her (*ibid.*). Plaintiff also alleges that she was charged false fees at an unspecified settlement proceeding (*ibid.*). The rest of plaintiff's complaint discusses the mortgage crisis, the

1 practices of banks in issuing predatory loans, and the general state of the real estate industry. It  
2 also attempts to set out various legal claims.

3 In addition to an opposition to defendant's motion, plaintiff filed a motion to sanction  
4 defense counsel (Dkt. No. 17). Plaintiff argues that sanctions are warranted because defense  
5 counsel "fil[ed] Defendants [sic] Answer in violation of Federal Rule of Civil Procedure 11(b)"  
6 (*id.* at 9). Defendant has not yet filed an answer to the complaint.

### 7 ANALYSIS

8 Under Federal Rule of Civil Procedure 12(e) "a party may move for a more definite  
9 statement of a pleading to which a responsive pleading is allowed but which is so vague or  
10 ambiguous that the party cannot reasonably prepare a response." Requiring a more definite  
11 statement is proper only where the complaint is so ambiguous that the defendant cannot ascertain  
12 the nature of the claim or claims being asserted. In such cases, the defendant cannot reasonably  
13 be expected to frame a response. *See Cellars v. Pac. Coast Packaging, Inc.*, 189 F.R.D. 575, 578  
14 (N.D. Cal. 1999).

15 Here, the nature of plaintiff's claims cannot be ascertained from her complaint. Plaintiff  
16 refers to both *defendant* and *defendants*, though only one party is a named defendant to this  
17 action. The complaint makes continuous reference to multiple unspecified parties that have  
18 allegedly engaged in conspiracies and caused unspecified harm. But it is unclear who is being  
19 referred to and what acts were allegedly committed. The complaint is also ambiguous as to the  
20 specific legal claims being asserted.

21 Defendant's motion for a more definite statement is therefore **GRANTED**. As stated  
22 previously, plaintiff is encouraged to seek assistance from the Legal Help Center in amending her  
23 complaint (*see* Dkt. No. 20).

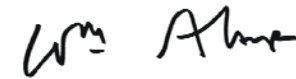
24 Furthermore, plaintiff's motion for sanctions is **DENIED**. The motion does not comply  
25 with the "safe harbor" requirement of Federal Rule of Civil Procedure 11 or with Civil Local Rule  
26 7-8.

**CONCLUSION**

The hearing on defendant's motion scheduled for October 14, 2010, is **VACATED**.  
Plaintiff has 14 calendar days from the date of this order to amend her complaint.

**IT IS SO ORDERED.**

Dated: October 7, 2010.



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**WILLIAM ALSUP**  
**UNITED STATES DISTRICT JUDGE**